

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 780

FINAL READING

Introduced by Lathrop, 12; Wallman, 30; Cornett, 45.

Read first time January 07, 2010

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act;
2 to amend section 48-151, Reissue Revised Statutes
3 of Nebraska, and section 48-1,110, Revised Statutes
4 Cumulative Supplement, 2008; to change provisions
5 relating to personal injuries; to provide applicability;
6 to harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Personal injury includes mental injuries
2 and mental illness unaccompanied by physical injury for an employee
3 who is a first responder if such first responder:

4 (a) Establishes, by a preponderance of the evidence, that
5 the employee's employment conditions causing the mental injury or
6 mental illness were extraordinary and unusual in comparison to the
7 normal conditions of the particular employment; and

8 (b) Establishes, by a preponderance of the evidence, the
9 medical causation between the mental injury or mental illness and
10 the employment conditions by medical evidence.

11 (2) For purposes of this section, mental injuries and
12 mental illness arising out of and in the course of employment
13 unaccompanied by physical injury are not considered compensable if
14 they result from any event or series of events which are incidental
15 to normal employer and employee relations, including, but not
16 limited to, personnel actions by the employer such as disciplinary
17 actions, work evaluations, transfers, promotions, demotions, salary
18 reviews, or terminations.

19 (3) For purposes of this section, first responder means
20 a sheriff, a deputy sheriff, a police officer, an officer of
21 the Nebraska State Patrol, a volunteer or paid firefighter,
22 or a volunteer or paid individual licensed under a licensure
23 classification in subdivision (1) of section 38-1217 who provides
24 immediate medical care in order to prevent loss of life or
25 aggravation of physiological or psychological illness or injury.

1 Sec. 2. Section 48-151, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-151 Throughout the Nebraska Workers' Compensation Act,
4 the following words and phrases shall be considered to have
5 the following meaning, respectively, unless the context clearly
6 indicates a different meaning in the construction used:

7 (1) Physician means any person licensed to practice
8 medicine and surgery, osteopathic medicine, chiropractic, podiatry,
9 or dentistry in the State of Nebraska or in the state in which the
10 physician is practicing;

11 (2) Accident means an unexpected or unforeseen injury
12 happening suddenly and violently, with or without human fault, and
13 producing at the time objective symptoms of an injury. The claimant
14 has the burden of proof to establish by a preponderance of the
15 evidence that such unexpected or unforeseen injury was in fact
16 caused by the employment. There is no presumption from the mere
17 occurrence of such unexpected or unforeseen injury that the injury
18 was in fact caused by the employment;

19 (3) Occupational disease means only a disease which is
20 due to causes and conditions which are characteristic of and
21 peculiar to a particular trade, occupation, process, or employment
22 and excludes all ordinary diseases of life to which the general
23 public is exposed;

24 (4) Injury and personal injuries mean only violence to
25 the physical structure of the body and such disease or infection

1 as naturally results therefrom and personal injuries described in
2 section 1 of this act. The terms include disablement resulting
3 from occupational disease arising out of and in the course of
4 the employment in which the employee was engaged and which was
5 contracted in such employment. The terms include an aggravation
6 of a preexisting occupational disease, the employer being liable
7 only for the degree of aggravation of the preexisting occupational
8 disease. The terms do not include disability or death due to
9 natural causes but occurring while the employee is at work and do
10 not include an injury, disability, or death that is the result of a
11 natural progression of any preexisting condition;

12 (5) Death, when mentioned as a basis for the right to
13 compensation, means only death resulting from such violence and its
14 resultant effects or from occupational disease;

15 (6) Without otherwise affecting either the meaning or the
16 interpretation of the abridged clause, personal injuries arising
17 out of and in the course of employment, it is hereby declared
18 not to cover workers except while engaged in, on, or about the
19 premises where their duties are being performed or where their
20 service requires their presence as a part of such service at the
21 time of the injury and during the hours of service as such workers,
22 and not to cover workers who on their own initiative leave their
23 line of duty or hours of employment for purposes of their own.
24 Property maintained by an employer is considered the premises of
25 such employer for purposes of determining whether the injury arose

1 out of employment;

2 (7) Willful negligence consists of (a) a deliberate act,
3 (b) such conduct as evidences reckless indifference to safety, or
4 (c) intoxication at the time of the injury, such intoxication being
5 without the consent, knowledge, or acquiescence of the employer or
6 the employer's agent;

7 (8) Intoxication includes, but is not limited to, being
8 under the influence of a controlled substance not prescribed by a
9 physician;

10 (9) Prospective loss costs means prospective loss costs
11 as defined in section 44-7504 and prepared, filed, or distributed
12 by an advisory organization which has been issued a certificate of
13 authority pursuant to section 44-7518; and

14 (10) Whenever in the Nebraska Workers' Compensation Act
15 the singular is used, the plural is considered included; when the
16 masculine gender is used, the feminine is considered included.

17 Sec. 3. Section 48-1,110, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

19 48-1,110 Sections 48-101 to 48-1,117 and sections 1 and
20 4 of this act shall be known and may be cited as the Nebraska
21 Workers' Compensation Act.

22 Sec. 4. The changes made by this legislative bill to the
23 Nebraska Workers' Compensation Act apply only to personal injuries
24 that occurred on or after the effective date of this act and before
25 June 30, 2014.

1 Sec. 5. Original section 48-151, Reissue Revised Statutes
2 of Nebraska, and section 48-1,110, Revised Statutes Cumulative
3 Supplement, 2008, are repealed.